

**THE UNITED STATES DISTRICT COURT  
THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CRIMINAL CASE NO. 1:16-cr-00002-MR-DLH**

UNITED STATES OF AMERICA, )

**Plaintiff,** )

**VS.**

**BARRY CARLTON TAYLOR,** )

**Defendant.** )

## ORDER

**THIS MATTER** is before the Court on the Government's Motion for Turnover of Funds Subject to Asset Freeze of the U.S. Commodity Futures Trading Commission [Doc. 37].

On January 25, 2016, the Defendant Barry Carlton Taylor pleaded guilty to one count of fraud by a commodities pool operator, in violation of 7 U.S.C. §§ 60 and 13(a)(2), and one count of concealment money laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(1). [Doc. 10]. The Defendant agreed in his plea agreement to pay full restitution to the victims of his criminal offenses. [Doc. 3]. On July 5, 2016, the Court sentenced the Defendant to

a term of imprisonment of 135 months and ordered him, among other things, to pay \$2,195,244.01 in restitution to his victims. [Doc. 28].

Prior to the initiation of this criminal action, the Commodity Futures Trading Commission (“CFTC”) filed a civil complaint in the United States District Court for the Western District of North Carolina against Barry Carlton Taylor, OTC Investments LLC, and Forex Currency Trade Advisors, LLC, alleging various violations of the anti-fraud and registration provisions of the Commodity Exchange Act. [Civil Case No. 1:15-cv-00081-MR (“CV”), Doc. 1]. That civil action is based on many of the same facts and events as this criminal prosecution. In that civil action, this Court has entered a preliminary injunction prohibiting the Defendants from dissipating, transferring or otherwise disposing of any assets. [CV Docs. 28, 31]. Pursuant to Fed. R. Civ. P. 65(d)(2), these injunctive provisions also bind the Defendants’ agents, employees, and attorneys, as well as all of those who have actual notice of the injunctions and who act in concert or participation with the Defendants.

The Government has identified two third-party financial institutions that hold limited funds in accounts in the names of Defendants Taylor and FCTA. These third-party financial institutions are both essentially treating the accounts in the Defendants’ names as “frozen,” absent clarifying instructions

from the Court as to how the funds should be handled. The accounts at issue are as follows:

*Table 1: United Community Bank Accounts*

Account No. (last four digits)	Account Title	Balance
Account 9904	Forex Currency Trade Advisors LLC	\$2,986.84
Account 3386	Barry Taylor	\$29.38
	<b>TOTAL FUNDS HELD</b>	<b>\$3,016.22</b>

*Table 2: Gain Capital (also known as Forex.com) Accounts*

Account No. (last four digits)	Account Title	Balance
Account 7939	Forex Currency Trade Advisors LLC	\$15,842.75
Account 5501	Forex Currency Trade Advisors LLC	\$10,435.74
	<b>TOTAL FUNDS HELD</b>	<b>\$26,278.49</b>

In accordance with the agreement reached between Defendant Taylor and the Government to apply these limited funds to Taylor's restitution obligation in the criminal case, the Court has, upon the motion of the Commission, modified the Preliminary Injunction Orders in the civil action so that these third party financial institutions are now permitted to release these funds and remit them directly to the Clerk of the Court. [CV Doc. 49].

In light of the foregoing, the Government requests that the amount of \$29,294.71 previously restrained by this Court's Orders entered in the aforementioned civil case filed by the CFTC be applied towards the

outstanding criminal restitution ordered in the judgment entered in this case on July 7, 2016 [Doc. 28]. For the reasons stated in the motion, and for cause shown, the Government's motion is granted.

**IT IS, THEREFORE, ORDERED** that the Government's Motion for Turnover of Funds Subject to Asset Freeze of the U.S. Commodity Futures Trading Commission [Doc. 37] is **GRANTED**.

**IT IS FURTHER ORDERED** that United Community Bank and Gain Capital (also known as Forex.com) shall release the funds and account balances listed above and remit them directly to the Clerk of the Court so that such funds may be applied towards the Defendant's restitution obligation.

**IT IS FURTHER ORDERED** that payment of said funds should be made payable to the United States Clerk of Court and mailed to:

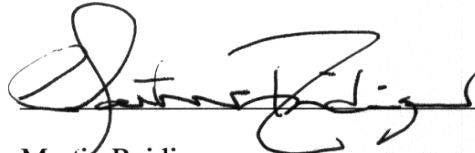
Clerk of the United States District Court  
401 West Trade Street  
Charlotte, NC 28202

The Government shall serve a copy of this Order on the appropriate compliance officials of both financial institutions forthwith to ensure that they receive timely notice of this Order. In order to ensure that each payment is

credited properly, the following should be included on each check: Criminal  
Case No. 1:16-cr-00002.

**IT IS SO ORDERED.**

Signed: August 17, 2016

  
Martin Reidinger  
United States District Judge

